

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FRANK SACO,

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C.A. NO.: 03-12551-MBB

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Plaintiff,

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v.

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TUG TUCANA and

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TUG TUCANA CORPORATION

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Defendants.

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PLAINTIFF'S MOTION
FOR EXTENSION OF TIME FOR EXPERT DISCLOSURE AND TO
AMEND SCHEDULING ORDER

The plaintiff requests this court grant an extension of time within which to file expert witnesses for an additional three months, and to amend the scheduling order accordingly. In support of this motion, the plaintiff sets forth the reasons below.

1. On or about April 13, 2003, the plaintiff was in the employ of the defendant, Constellation Tug Corporation, as a seaman and member of the crew of the chartered TUG TUCANA. While the TUG TUCANA was in navigable waters and while the plaintiff was in the exercise of due care and in the performance of his duties, he sustained severe and painful personal injuries.
2. On December 18, 2003 the plaintiff filed suit and an Amended Complaint was filed on November 20, 2004, under the Jones Act, the general maritime law based upon unseaworthiness, and for maintenance and cure.

3. The case has been progressing steadily toward an end result subsequent to its filing. Discovery has been ongoing. The deposition of Captain Michael Duarte of the TUG TUCANA had been noticed earlier but Captain Duarte had been unavailable until March 4, 2005. Therefore, based upon information obtained during his deposition, it becomes necessary to obtain expert testimony and counsel for the plaintiff requests additional time to forward this testimony to an expert for evaluation.

4. In addition, the plaintiff has not currently reached a medical end result: another surgical procedure is pending on the ankle injured as a result of this incident.

5. Further, defense counsel has requested the re-opening of the deposition of the plaintiff regarding said injuries (see attached letter dated March 11, 2005).

6. In the normal course of proceedings, factual discovery is completed prior to the completion of expert disclosures. Counsel for plaintiff does not object to the taking of further deposition testimony of the plaintiff (after recovery from his further surgery), provided that the plaintiff is granted leave to designate expert witnesses.

7. The defendant will not be prejudiced by the allowance of this motion.

CONCLUSION

For these reasons, the plaintiff requests this court to extend the time within which defendant can re-open deposition of plaintiff and plaintiff can designate expert witnesses under Fed. R. Civ. P. 26. Counsel for the plaintiff requests an additional three (3) months.

Respectfully submitted,
By his attorneys,

/s/ David B. Kaplan

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